

In so holding, the Appeals Board has followed the majority rule as set out in Larson's Workers' Compensation Law, § 7.04 (1999).

Respondent, however, disputes that claimant's fall was unexplained. Instead, respondent contends that it was an idiopathic fall which, therefore, renders this claim noncompensable. See Rogers v. Wal-Mart, WCAB Docket No. 233,965 (May 2000). Claimant fell because he lost consciousness. If he lost consciousness due to a personal condition and not due to a risk or hazard associated with the employment, the claim is not compensable. See Bennett v. Wichita Fence Co., 16 Kan. App.2d 458, 824 P.2d 1001 (1992). But the facts do not establish that claimant's loss of consciousness was due to a personal condition unrelated to his work activities, such as a seizure disorder or a cardiac event. The medical opinions point either to the work activities being contributory such as with vertebral basilar insufficiency or postural hypotension, or else an unknown cause. In either case the claim is compensable.

AWARD

WHEREFORE, it is the finding, decision and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge Bruce E. Moore dated May 18, 2001, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this _____ day of August 2001.

BOARD MEMBER

c: Scott J. Mann, Hutchinson, KS
Kendall R. Cunningham, Wichita, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director